

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ANN MARIE ROSE BAKER, M.D., §
PLAINTIFF, §
v. § CIVIL ACTION NO. 4:08-CV-1908
§
UNIVERSITY OF TEXAS. HEALTH §
SCIENCE CENTER - HOUSTON AND §
THE UNIVERSITY OF TEXAS SYSTEM §
MEDICAL FOUNDATION, §
DEFENDANTS § JURY TRIAL DEMANDED

DEFENDANTS' ORIGINAL ANSWER

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendants, University of Texas Health Science Center - Houston and the University of Texas Medical Foundation, file this answer to Plaintiff's original complaint. Defendants deny that Plaintiff is entitled to any relief and answer the specific allegations in the original complaint as follows:

- 1) Defendants deny the averments of paragraph 1.
- 2) Defendants deny the averments of paragraph 2.
- 3) Defendants deny the averments of paragraph 3.
- 4) Defendants admits the averments of paragraph 4.
- 5) Defendants deny the averments of paragraph 5.
- 6) Defendants admit that UTHSC Houston might be an employer, but otherwise deny the averments of paragraph 6.
- 7) Defendants admit that the UT System Medical Foundation may be an employer, but

otherwise deny the averments of paragraph 7

- 8) Defendants admit the averments of paragraphs 8.
- 9) Defendants admit the averments of paragraph 9.
- 10) Defendants admit the averments of paragraph 10.
- 11) Defendants admit the averments of this paragraph 11 insofar as it addresses some, but not all of the Foundation's role involving the parties herein.
- 12) Defendants admit to the averments of paragraph 12.
- 13) Defendants admit to the averments of paragraph 13.
- 14) Defendants admit to the averments of paragraph 14.
- 15) Defendants admit to the averments of paragraph 15.
- 16) Defendants admit that Plaintiff completed the residency. Defendants deny the remaining averments of paragraph 16.
- 17) Defendants lacks knowledge or information sufficient to form a belief as the averments in paragraph 17.
- 18) Defendants deny the averments of paragraph 18.
- 19) Defendants deny the averments of paragraph 19.
- 20) Defendants deny the averments of paragraph 20.
- 21) Defendants deny the averments of paragraph 21. Defendants deny Plaintiff is entitled to any relief in any manner or amount.

DEFENSES

- 1) Plaintiff's claims are barred as she has failed to state a claim for which relief can be granted.
- 2) Plaintiff's claims are barred by sovereign, Eleventh Amendment, qualified, and/or official immunities.

- 3) Plaintiff's claims are barred by the applicable statute of limitations, including but not limited to filing her lawsuit on a timely basis after received the notice of consent to sue.
- 4) Plaintiff claims are barred by failure to exhaust administrative remedies.
- 5) Plaintiff claims are barred in whole or in part, by res judicata, collateral estoppel, ratification waive, estoppel, unclean hands as well as Plaintiff's failure to mitigate
- 6) Plaintiffs further pleads the defenses provided by 42 USC § 12113 including but not limited business necessity undue hardship and protection of the health and safety of others.

WHEREFORE PREMISES CONSIDERED, Defendants request the court to deny Plaintiff all relief and to grant Defendants all relief in law or equity to which they are entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and forgoing document has been sent via certified mail, return receipt requested, on September 17th, 2008 to the following individual:

Anthony P. Griffin
A Griffin Lawyers
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Galveston, TX 77550

/s/ Daniel C. Perkins
DANIEL C. PERKINS
Assistant Attorney General